

The Department of State acknowledges receipt of diplomatic note No. 0005, dated July 2, 2008, from the Embassy of Canada, concerning U.S.-Canada cooperation on migratory bird issues under Articles II and III of the August 16, 1916, Convention for the Protection of Migratory Birds in the United States and Canada, which states:

“The Embassy of Canada presents its compliments to the Department of State of the United States of America and is gratified by the continuing U.S.-Canada cooperation on migratory bird issues, as contemplated by the August 16, 1916 Convention for the Protection of Migratory Birds in the United States and Canada, as amended December 14, 1995 (“the Convention”).

“In Article II of the Convention, the Parties agreed that, to ensure the long-term conservation of migratory birds, migratory birds shall be managed in accordance with the following conservation principles, to: manage migratory birds internationally; ensure a variety of sustainable uses; sustain healthy migratory bird populations for harvesting needs; provide for and protect habitat necessary for the conservation of migratory birds; and restore depleted populations of migratory birds.

“Article II of the Convention establishes that the means to pursue these principles may include, but are not limited to: monitoring, regulation, enforcement and compliance; co-operation and partnership; education and information; incentives for effective stewardship; protection of incubating birds; designation of harvest areas; management of migratory birds on a population basis; use of aboriginal and indigenous knowledge, institutions and practices; and development, sharing and use of best scientific information.

“Article II further provides, inter alia, that subject to laws, decrees or regulations to be specified by the proper authorities, the taking of migratory birds may be allowed at any time of the year for scientific, educational, propagative, or other specific purposes consistent with the conservation principles of the Convention. Furthermore, Article V of the Convention provides that the taking of nests or eggs of migratory birds may be allowed for specific purposes consistent with the principles of the Convention under such laws and regulations as the Parties deem appropriate.

“In Article III of the Convention, the Parties agreed to meet regularly to review progress implementing the Convention and that such review would address issues important to the conservation of migratory birds, including the status of migratory bird populations, the status of important migratory bird habitats, the effectiveness of management and regulatory systems and other issues deemed important by either Party. The Article further provides that the Parties may conclude special arrangements to conserve and protect species of concern.

“Taking into account these provisions of the Convention, the Parties have specifically reviewed the issues of the incidental take of migratory birds, nests or eggs, caused by activities including, but not limited to, forestry, agriculture, mining, oil and gas exploration, construction and fishing activities, and concluded that these issues have increasingly become a concern for the long-term conservation of migratory bird populations in accordance with Article II of the Convention.

“In order to support the long term conservation of migratory birds, Canada is considering an approach to the management of incidental take that would identify conservation measures. These conservation measures may include reporting requirements and actions to avoid, minimize or mitigate the effects on migratory bird populations of activities that have the potential to incidentally take, kill or injure migratory birds or that can damage or destroy nests or eggs. Canada is considering making the authorization of incidental take contingent on compliance with approved conservation measures. Both Parties have concluded that this management approach is consistent with the Convention, and in particular, Article II.”

Canada's note and this affirmative reply establish a mutually held interpretation of the Government of Canada and the Government of the United States with respect to the Convention.

Department of State,

Washington,